

REMARKS

Reconsideration of this application and the rejection of claims 12, 15 and 20 are respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated January 30, 2004 (Paper No. 17) and believe the application is now in condition for allowance. The claims have been amended to more clearly define the present invention. The Applicants acknowledge the allowance of claims 21-22, as well as the allowability of claims 13, 14, 16-19 and 23.

Claims 12, 15 and 20 stand rejected under 35 USC §103(a) as being unpatentable over Phillips et al. ('072) in view of Toulouse ('085). As now recited in amended claim 12, the present invention, among other things, recites a combustion tool comprising a fuel cell that is non-removably fixed to an adapter such that the adapter is configured to fracture if rotational removal from the fuel cell is attempted, and configured for being accommodated in the housing in fluid communication with the fuel metering valve.

Phillips et al. disclose a regulator 82 which includes a circular mating portion 144 that sealably mates to a generally cylindrical fuel container 77. The regulator 82 may be retained on a handle 140 by a regulator retaining system 146, which includes a cross pin 148, a latch spring 65, and a latch slide 76. When the latch slide 76 is pressed against the latch spring 65, the cross pin 148 is released and the regulator 82 is able to be removed from the handle 140. With the regulator 82 removed from the handle 140, the fuel cartridge 77 can be removed or inserted into a receptacle 142.

Toulouse discloses a seal support 1 intended to receive a male ejection joining piece 23 of a fuel cartridge 20 and a male inlet joining piece 32 of a valve 30. The seal support 1 includes an abutment base 2 having two attachment legs 5, 6. The two legs 5, 6 are provided with a hook to hook onto the inner wall of the cartridge 20 to retain the seal 1 onto the cartridge 20. However, Toulouse fails to disclose or suggest that the seal 1 (adapter) is non-removably fixed to the cartridge 20 (fuel cell). Further, there is no disclosure or suggestion in Toulouse of a non-removable seal (adapter) that is configured to fracture if rotational removal from the cartridge (fuel cell) is attempted.

Further, upon belief, the configuration of Toulouse is such that the seal may be removed from the cartridge, and as such teaches away from the present invention (See esp. Col. 1, lines 40-44 of Toulouse, where one object of this structure is facilitating the operation of changing the seal). Also, since the abutment base 2 has a opening adjacent the legs 5, 6, an inward radial force could be exerted on the legs. This force would disengage the hook portion from the side of the cartridge, and the seal could be removed. Thus, neither Toulouse nor Phillips et al., whether taken alone or in combination, address the need for a fixed adapter which prevents users from refilling the fuel cells with generic fuel which may cause inadequate performance of the tool. Thus, while Applicant disputes any incentives for combining Toulouse with Philips, even if such a combination could be made, the invention as now recited would be neither disclosed nor suggested. Further, neither Toulouse nor Phillips et al. address the need for a fixed adapter which fractures upon attempted rotational removal

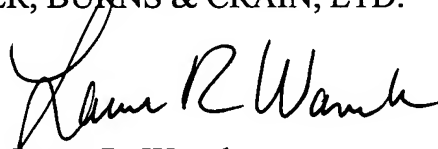
from the fuel cell. Accordingly, the rejection based on Phillips et al. in view of Toulouse is respectfully traversed.

Applicants submit that, in view of the above-identified amendments and remarks, the claims in their present form are patentably distinct over the art of record. Allowance of the rejected claims is respectfully requested. In the alternative, the claims are submitted to be in better form for appeal. Should the Examiner discover there are remaining issues which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below or Lisa Soltis, main attorney of record at (847)657-7980. Correspondence should be directed to Lisa Soltis.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

By



Laura R. Wanek

Registration No. 53,737

Attorney for Applicants

April 21, 2004

300 South Wacker Drive
Suite 2500
Chicago, Illinois 60606
Telephone: (312) 360-0080
Facsimile: (312) 360-9315
Customer No. 24978

P:\DOCS\0901\65663\470803.DOC